



September 3, 2002

Karen Getman, Chairman  
Fair Political Practices Commission  
428 J Street  
Sacramento, CA 95814

Re: Agenda Item 8.a. Petition to Amend Regulation 18531.7

Dear Chairman Getman:

I am writing to ask the Commission to reconsider its recently adopted regulation concerning the member education provision of Proposition 34.

As you may know, SEIU represents over 500,000 members and is the largest and most diverse union in California. SEIU members work in state and local government, education, health care, social services, building service, and the courts.

SEIU regularly communicates with its members regarding the union's views on political issues, including ballot measures and candidates. SEIU encourages its members to be politically involved. This involvement includes members interviewing candidates as part of our endorsement process, meeting with candidates to educate them regarding issues of importance to SEIU members and talking with other members about both candidates and ballot issues.

SEIU supported Proposition 34 because it enacted reasonable campaign finance reforms which did not undermine the collective freedom of speech and associational rights of California's working men and women. One provision in particular was important to SEIU: Section 85312 which exempted from the definition of "contribution" payments made by a membership organization communicating its political views to its members. We always understood that exemption to apply without qualification, including whether or not SEIU coordinated its member communication efforts with an affected candidate.

FPFC regulation 18531.7 changes that understanding. In our view, regulation 18531.7 contradicts the exemption created by section 85312. Specifically section (c) of the regulation provides that payments "made at the behest" of a candidate are not exempt, but instead become contributions subject to the limits and reporting requirements of Proposition 34. We understand that

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the term "at the behest" is broadly defined and could include many of the normal activities of SEIU in interacting with candidates.

I see nothing in section 85312 that supports the Commission's interpretation. In fact, the statute is clear – member communications simply are not contributions. This is true whether or not the communications are made at the behest of a candidate.

SEIU strongly encourages the FPFC to amend this regulation to eliminate section (e) or amend it to conform to the clear meaning of section 85312.

SEIU also is concerned that the definition of "member" adopted by the Commission is inappropriate. Apparently the definition adopted by the Commission is derived from the experience of the corporate world, which is based on a very narrow governance model. Membership organizations – including unions – provide for the democratic participation of their members through a wide variety of governance arrangements that do not necessarily conform to the corporate model. As a result, if narrowly interpreted by future Commissions and/or the courts, the definition of "member" adopted by this Commission could end up excluding many legitimate membership organizations from the protection of their constitutional rights intended by Section 85312.

SEIU recommends that the Commission consider basing its definition on the FEC definition of "member." The FEC definition is well tested and understood, and more accurately reflects the "common denominators" shared by membership organizations.

I apologize for the lateness of these comments. Unfortunately the press of other matters (including especially the State budget) distracted me from these important issues. Please give me a call if you have any questions or comments about the concerns I am raising.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Tipps", with a stylized flourish at the end.

Dean C. Tipps  
Executive Secretary-Treasurer